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Decision No. AK 70/89

30 MAR 1990

Reference No. MVD 99/89

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5 APR 1989

IN THE MATTER of the Motor Vehicle
Dealers Act 1975

AND

IN THE MATTER of a dispute

BETWEEN

[REDACTED]

Purchaser

AND

[REDACTED]

Dealer

BEFORE THE AUCKLAND MOTOR VEHICLE DISPUTES TRIBUNAL

Messrs H T D Knight (Chairman)
R G Lewis
A E Enting

HEARING at AUCKLAND on Friday 7 July 1989

APPEARANCES

[REDACTED] in person
[REDACTED] for dealer

DECISION

This dispute related to the sale and purchase of a 1982 Mitsubishi Lancer motorcar purchased on 23 December 1988. It was a category D motor vehicle, the price being \$7,500. The odometer at purchase read 138,000 kilometres.

The limit of the jurisdiction under section 98 of the Act is \$3,000 only unless under section 98(1)(b) "both parties to the dispute consent in writing to the investigation of the dispute by the Disputes Tribunal". This was explained to the parties. They were shown a copy of the Act and they agreed to the extension of jurisdiction. The Tribunal then considered the complaint.

The purchaser complained of firstly, a problem with the electrical components of the vehicle. On the first night that he drove the vehicle, the interior lights went out and the tail light was flickering. This was brought to his notice by a traffic officer who stopped him and only gave him a warning when he realised that the purchaser had just obtained the car.

The purchaser also suffered a problem with the wipers (which the licensee has agreed to repair) and the headlights which have been intermittent in their performance. The licensee has already complied with his warranty under the Act in that he has already replaced two tyres which had boots in them, which he was unaware of, he has replaced the muffler that dropped off and has also replaced the tail pipe that fell off.

The purchaser took the car to have the electrical problem attended to by a Whangarei firm. They refused to repair it. It would appear that they refused on the basis that the whole of the electrical system required replacement. They also indicated that in their opinion, the vehicle had been immersed in salt water.

The licensee received the vehicle and obtained an opinion from an electrician to the effect that the only problem was some corrosion in the electrical system. The licensee also said that he had obtained an opinion from a panelbeater who told him that the vehicle had not been under water although it showed some signs of rust around the boot area.

The Tribunal gave the parties 21 days in which to obtain written reports from panelbeaters as to whether or not this vehicle had been immersed in the salt water and giving their reasons in those reports.

The purchaser also complained that the vehicle had not been registered at the time of purchase. It appears that this allegation is correct, therefore the warrant of fitness was not properly issued in that it should have been registered before the warrant was issued.

The minimum period for registration of a vehicle is six months and the Tribunal has therefore already indicated to the licensee that he should be responsible for the first six months registration. He should pay the amount of registration required for six months to the purchaser. Also, if the vehicle has not been immersed in salt water, he would still be responsible to repair the electrical system of the car insofar as it has been affected by corrosion.

When the Tribunal sat for its hearings on 3 August 1989 the purchaser had not submitted a report from a panelbeater as he had been requested to do. The licensee had not submitted a report and there is a letter on the file to the Justice Department from the licensee which reads as follows:

" [REDACTED] returned with the above car today completely unannounced at 10.15am.

"Unfortunately the Manager of [REDACTED], the panelbeater we wish to inspect the car was away for the day. When I told [REDACTED] this he stormed off and refused to return the car for inspection.

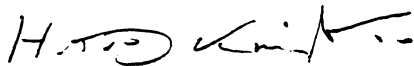
"I feel we have done our best to resolve this dispute and await your decision."

The time having expired for the reports to be to hand and they not having been received, that part of the purchaser's complaint is dismissed.


However, the vehicle should be returned to the licensee so that the electrical problems with it can be repaired by him.

There will therefore be an order for the purchaser to return the vehicle to the licensee (he having made a suitable appointment with the licensee for the return of the vehicle) within 30 days of the date of this decision being delivered to the parties.

DATED at AUCKLAND this 1st day of September 1989



H T D Knight
Chairman



R G Lewis
Member



A E Enting
Member